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EXAMINER

COLON, CATHERINE M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/385,414

**Applicant(s)**

POAGE ET AL.

**Examiner**

C. Michelle Colon

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47 and 48 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15, 18 and 21-46 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 16, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a Final Office Action in response to the communication received on May 25, 2004. Claims 1, 3 and 10 have been amended. Claims 1-48 are now pending in this application.

#### ***Response to Amendment***

2. Applicant's amendments to claims 1, 3 and 10 are acknowledged.

#### ***Response to Arguments***

3. In the Remarks, Applicant argues that claims 1, 3 and 21 are directed to statutory subject matter. Examiner finds the argument persuasive. Therefore, the 35 U.S.C. 101 technological arts rejection is withdrawn.

In the Remarks, Applicant argues that with regard to the 35 U.S.C. 112, second paragraph rejection, claims 1, 10, 18, 21 and 24 are definite. Examiner finds the argument persuasive. Therefore, the 35 U.S.C. 112, second paragraph, rejection is withdrawn.

In the Remarks, Applicant argues that Cannon does not disclose determining a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request *for availability or sales information*.

To begin with, nowhere in claim 1 or in any of the claims is it recited, "... a customer request **for availability or sales information.**" [Emphasis added] Additionally, on page 3 of the Remarks, Applicant maintains that the present invention "first determines which prior initiatives closely match the new initiative." There is nothing in the recited claims that discusses matching **similar initiatives**. On page 3 of the Remarks, Applicant also maintains that the database includes data relating to the success of past marketing initiatives. Again, there is nothing in claim 1 or in any of the other independent claims that recites a **database** containing **data relating to the success of past marketing initiatives**. Thus, with regard to Applicant's three assertions discussed above, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Now with regard to Applicant's main argument that Cannon does not disclose "determining a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request," Examiner respectfully disagrees. Examiner has separated the limitation to show how Cannon discloses the limitation by the following: determining a likelihood that the new initiative will be effective prior to use of the new initiative (col. 31, line 65-col. 32, line 3; The system uses a scoring methodology to determine the likelihood that a possible advertisement spot will be effective. I.e., the

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higher the score, the higher the likelihood.) using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 35, lines 8-9, 56-62 and 65-66; One factor used in computing a score is the exposure valuation index, which represents the total number of times an advertisement is exposed or *selected*. In computing the exposure valuation index, the system uses historic data from past initiatives by selecting an advertisement spot in the *past* for which the time, media and *advertising conditions are similar to the proposed advertising campaign.*). Thus, Cannon does disclose how previous advertisements have faired in the same time slots that similar, proposed advertisements are being considered for.

In conclusion, Applicant's argument has been fully considered, but is found unpersuasive. The art rejection is maintained and repeated below.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 10-15, 18, and 21-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Cannon (U.S. 6,286,005).

As per claim 1, Cannon discloses a method for creating a marketing initiative comprising the steps, performed by a processor, of:

inputting offer parameters for a new initiative, including an initiative time period and an initiative description (col. 13, lines 47-59; col. 14, lines 43-53; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.); and

associating customer selection criteria with the offer parameters (col. 14, lines 43-53; col. 22, lines 15-26; col. 32, lines 52-62; The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.);

determining a likelihood that the new initiative will be effective prior to use of the new initiative (col. 31, line 65-col. 32, line 3; The system uses a scoring methodology to determine the likelihood that a possible advertisement spot will be effective.) using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 35, lines 8-9, 56-62 and 65-66; One factor used in computing a score is the exposure valuation index, which represents the total number of times an advertisement is exposed or *selected*. In computing the exposure valuation index, the system uses historic data from past initiatives by selecting an advertisement spot in the *past* for which the time, media and *advertising conditions* are *similar* to the *proposed advertising campaign*.); and

providing a result indicating the effectiveness of the new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 2, Cannon discloses the method of claim 1, further comprising the step of storing the new initiative in a database based on the result (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 3, Cannon discloses the method of claim 1, wherein said inputting step comprises inputting an initiative time period that includes an effective date and an expiration date (col. 28, lines 22-26; col. 29, lines 51-54; col. 33, lines 33-39).

As per claim 4, Cannon discloses the method of claim 2, wherein said database is at least one of a decision support subsystem (DSS) database and a runtime offer database (col. 3, lines 33-59; col. 12, lines 9-22; col. 13, lines 31-59; col. 28, lines 42-47; Figure 1; The system includes a data mining engine system that interacts with various databases to optimize and run advertising campaigns.).

As per claim 5, Cannon discloses the method of claim 2, further comprising:  
determining an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 6, Cannon discloses the method of claim 4, further comprising the steps of:

determining whether the new initiative is to be put into effect immediately, storing the new initiative in the runtime offer database based on the determination that the new initiative is to be put into effect immediately, and storing the new initiative in the DSS database based on the determination that the new initiative is not to be put into effect

immediately (col. 31, line 55-col. 32, line 36; The system determines whether to put the initiative into effect immediately or to store the initiative for further analysis and optimization.).

As per claim 7, Cannon discloses the method of claim 6, further comprising the step of: applying data from the DSS database to the runtime offer database periodically in a time-initiated load cycle (col. 28, lines 32-54; The system schedules advertising campaigns using data from databases.).

As per claim 10, Cannon discloses a sales manager system including a sales manager workstation for creating a marketing initiative comprising:

a sales manager workstation controller including means for entering offer parameters for a new initiative and means for associating customer selection criteria with the offer parameters (col. 13, lines 31-59; col. 14, lines 43-53; col. 22, lines 13-33; col. 28, lines 22-26; col. 31, lines 1-10; col. 32, lines 52-62; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed. The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.);

a trend analysis unit using stored statistics reflecting hit rates based on characteristics of other past initiatives to determine a likelihood that the new initiative will be effective prior to use of the new initiative, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col.



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37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores “spots” of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), and wherein a result is provided indicating the effectiveness of the new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 11, Cannon discloses the sales manager system of claim 10, wherein the new initiative is stored in a database based on the result (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 12, Cannon discloses the sales manager system of claim 11, wherein the database is at least one of decision support subsystem (DSS) database and a runtime offer database (col. 3, lines 33-59; col. 12, lines 9-22; col. 13, lines 31-59; col. 28, lines 42-47; Figure 1; The system includes a data mining engine system that interacts with various databases to optimize and run advertising campaigns.).

As per claim 13, Cannon discloses the sales manager system of claim 11, further comprising:

an impact analysis unit for determining an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 14, Cannon discloses the sales manager system of claim 12, further comprising: means for determining whether the new initiative needs to be put into effect immediately, means for storing the new initiative in the runtime offer database based on the determination that the new initiative is to be put into effect immediately, and means for storing the new initiative in the DSS database based on the determination that the new initiative is not to be put into effect immediately (col. 31, line 55-col. 32, line 36; The system determines whether to put the initiative into effect immediately or to store the initiative for further analysis and optimization.).

As per claim 15, Cannon discloses the sales manager system of claim 14, wherein data from the DSS database is applied to the runtime offer database periodically in a time-initiated load cycle (col. 28, lines 32-54; The system schedules advertising campaigns using data from databases.).

As per claim 18, Cannon discloses a sales manager system comprising:  
a sales manager workstation for creating a marketing initiative, said sales manager workstation including a sales manager workstation controller including means for entering offer parameters for a new initiative and means for associating customer selection criteria with the offer parameters (col. 13, lines 31-59; col. 14, lines 43-53; col. 22, lines 13-33; col. 28, lines 22-26; col. 31, lines 1-10; col. 32, lines 52-62; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed. The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.), a trend analysis unit using stored

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statistics reflecting hit rates based on characteristics of other past initiatives to determine a likelihood that the new initiative will be effective prior to use of the new initiative, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), and an impact analysis unit for determining an impact of the new initiative on the other initiatives stored in a database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53);

a decision support system (DSS) database connected to the sales manager workstation for storing the new initiative and a runtime offers subsystem connected to the DSS database for using information from a customer request to determine a most targeted initiative (col. 3, lines 33-59; col. 12, lines 9-22; col. 13, lines 31-59; col. 28, lines 42-47; Figure 1; The system includes a data mining engine system that interacts with various databases to optimize and run advertising campaigns.); and

a marketing host connected to the runtime offers subsystem, said marketing host including means for sending customer requests to the runtime offers subsystem (col. 28, lines 22-54; Figure 8; The initiative database interacts with the viewing data to determine the most appropriate initiative.).

As per claim 21, Cannon discloses a method for creating a marketing initiative comprising the steps, performed by a processor, of:

inputting a set of new initiatives, wherein each initiative includes an initiative time period and an initiative description (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.); and

associating customer selection criteria with each new initiative (col. 14, lines 43-53; col. 22, lines 13-33; col. 31, lines 1-10; col. 32, lines 52-62; The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.);

determining a likelihood that each new initiative will be effective using stored statistics reflecting hit rates based on characteristics of past initiatives with past sales requests (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to

determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.); and

providing a result indicating the effectiveness of each new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 22, Cannon discloses the method of claim 21, further comprising: selectively storing in a database new initiatives from the set of new initiatives based on the result associated with each new initiative in the set (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 23, Cannon discloses the method of claim 22, further comprising: determining an impact of each new initiative on other new initiatives in the set of new initiatives and other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 24, Cannon discloses a data processing system for creating a marketing initiative, comprising:

a memory having program instructions (Figure 1); and  
a processor responsive to the program instructions to input offer parameters for a new initiative, including an initiative time period and an initiative description (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new

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initiative can be created and analyzed.), associate customer selection criteria with the offer parameters (col. 14, lines 43-53; col. 22, lines 13-33; col. 31, lines 1-10; col. 32, lines 52-62; The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.), determine a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), and provide a result indicating the effectiveness of the new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 25, Cannon discloses a method for creating a marketing initiative comprising the steps, performed by a processor, of:

(a) receiving offer parameters from a user for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a

user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determining a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics associated with other past initiatives (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores “spots” of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.);

(c) providing a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16); and

(d) receiving an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.); and

(e) storing the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 26, Cannon discloses the method of claim 25, wherein if said step (d) receives an indication that the user is not satisfied with the new initiative, steps (a)-(c) are repeated (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.).

As per claim 27, Cannon discloses the method of claim 25 further comprising:  
determining an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 28, Cannon discloses the method of claim 25 further comprising:  
comparing contract obligations associated with the user with the initiative to determine whether the initiative violates any of the user's contract obligations (col. 63, lines 9-20; The system discloses comparing contract obligations that specify age and gender with the age and gender parameters of an advertising plan.).

As per claim 29, Cannon discloses the method of claim 25, wherein said step (b) comprises:

extracting key values from the new initiative, structuring the key values into key-paths, and comparing the key-paths of the initiative with key-paths of past initiatives (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns.).



As per claim 30, Cannon discloses the method of claim 25 further comprising:

receiving a sales request from a customer, searching the database to determine an initiative that is most relevant to the sales request, and presenting the most relevant initiative to the customer (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claim 31, Cannon discloses the method of claim 30 further comprising:

tracking initiatives that are presented to customers to assist in market analysis (col. 42, lines 37-51; col. 45, lines 18-32; Figures 13, 20 and 21; The system tracks the initiatives that are presented to customers (such as exposure and frequency) and uses them for analyzing the effectiveness of new initiatives and for determining advertiser costs.).

As per claim 32, Cannon discloses the method of claim 30 further comprising:

extracting key values from the sales request, said key values including customer selection criteria, and structuring the key structures into a series of key-paths, and wherein said searching step searches the database using the key-paths (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claim 33, Cannon discloses a system for creating a marketing initiative, comprising:

a memory having program instructions (Figure 1); and

a processor responsive to the program instructions such that said processor at least:

(a) receives input offer parameters for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determines a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics associated with other past initiatives (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37; lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.);

(c) provides a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16);

(d) receives an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.); and

(e) stores the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 34, Cannon discloses the system of claim 33, wherein if said processor further receives an indication that the user is not satisfied with the new initiative and repeats processes (a)-(c) (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.).

As per claim 35, Cannon discloses the system of claim 33, wherein said processor further:

determines an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 36, Cannon discloses the system of claim 33, wherein said processor further:

compares contract obligations associated with the user with the initiative to determine whether the initiative violates any of the user's contract obligations (col. 63, lines 9-20; The system discloses comparing contract obligations that specify age and gender with the age and gender parameters of an advertising plan.).

As per claim 37, Cannon discloses the system of claim 33, wherein said processor:

extracts key values from the new initiative, structures the key values into key-paths, and compares the key-paths of the initiative with key-paths of past initiatives (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns.).

As per claim 38, Cannon discloses the system of claim 33, wherein said processor:

receives a sales request from a customer, searches the database to determine an initiative that is most relevant to the sales request, and presents the most relevant initiative to the customer (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claim 39, Cannon discloses the system of claim 38, wherein said processor:

tracks initiatives that are presented to customers to assist in market analysis (col. 42, lines 37-51; col. 45, lines 18-32; Figures 13, 20 and 21; The system tracks the

initiatives that are presented to customers (such as exposure and frequency) and uses them for analyzing the effectiveness of new initiatives and for determining advertiser costs.).

As per claim 40, Cannon discloses the system of claim 38, wherein said processor:

extracts key values from the sales request, said key values including customer selection criteria, and structures the key structures into a series of key-paths, and searches the database using the key-paths (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claims 41 and 43, Cannon discloses a method and system for creating a marketing initiative comprising the steps, performed by a processor, of:

(a) receiving offer parameters from a user for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determining a likelihood that the new initiative will be effective using stored statistics associated with other past initiatives, wherein said determining comprises extracting key values from the new initiative (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64;

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col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), structuring the key values into key-paths, and comparing the key-paths of the initiative with key-paths of past initiatives (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns.);

(c) providing a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16); and

(d) receiving an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.); and

(e) storing the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claims 42 and 44, Cannon discloses the method and system of claims 41 and 43, wherein the key-paths are trigger values that define characteristics of the initiative (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented, where the scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns. The indices define characteristics of the initiative.).

As per claims 45 and 46, Cannon discloses a method and system for creating a marketing initiative comprising the steps, performed by a processor, of:

(a) receiving offer parameters from a user for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determining a likelihood that the new initiative will be effective using stored statistics associated with other past initiatives (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical

exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.);

(c) providing a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16); and

(d) receiving an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.);

(e) comparing contract obligations associated with the user with the initiative to determine whether the initiative violates any of the user's contract obligations (col. 63, lines 9-20; The system discloses comparing contract obligations that specify age and gender with the age and gender parameters of an advertising plan.); and

(f) storing the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

### ***Allowable Subject Matter***

6. Claims 8, 9, 16, 17, 19 and 20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 47 and 48 are allowed.



***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 703-605-4251. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

***Washington D.C. 20231***

or faxed to:

703-872-9306 [Official Communications; including After Final  
communications labeled "Box AF"]

703-746-7202 [For status inquiries, draft communication, labeled  
"Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA 7<sup>th</sup> floor receptionist.

  
cmc

January 18, 2005

  
TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600